

FULL COUNCIL MEETING MINUTES
March 19, 2018 - 1:30 PM
STATE COUNCIL FOR PERSONS WITH DISABILITIES
Felton-Farmington Conference Room, DelDOT Building, Dover

PRESENT

Jamie Wolfe, Chair; Debra Bradl, DHSS/DVI; Anthony Carter, JEVS; Jocelyn Langrehr, DOL/DVR; Karen McGloughlin, DHSS/DPH; Jim Miller, Polio/Post-Polio Support Group; Loretta Sarro, DOL/DVR-DODHH; Lloyd Schmitz, Council of the Blind/EFOC; James Steele; National Federation of the Blind-DE; Laura Waterland, DLP (via phone); John McNeal, Staff; Amber Rivard, Support Staff; Zachery Cook, Intern–SCPD, and Jo Singles, Support Staff.

GUESTS

Victoria Counihan, DOJ/AG
Abby Stewart, Embrace

Interpreters: Peg Stewart/Caroline Greene

CALL TO ORDER

Jamie called the meeting to order at 1:53 pm. The meeting was delayed due to lack of quorum. Everyone introduced themselves.

ADDITION OR DELETIONS TO THE AGENDA

None

APPROVAL OF MINUTES

Lloyd made a motion that the minutes from the February 19th meeting be approved as submitted. Debra seconded the motion. Minutes were approved as submitted

BUSINESS

Sheila Grant (AARP) – Share the Care/Nurse Delegation Legislation

Sheila distributed two documents—an AARP flyer regarding AARP Delaware Day at Legislative Hall in Dover on Thursday, April 19th, 2018 (starting at noon) and an informational sheet on Sharing the Care in Delaware. Delaware AARP is supporting pending legislation that will allow family caregivers to share the care. These bills will help caregivers balance their

responsibilities, help patients avoid missed doses of medication, and help Delaware meet the growing need for more health professionals.

Sheila noted that the legislation has not been written, but will add another exception to the Nurse Practice Act that an aide hired by the family to take care of a person in a private home can give medications. This will also provide instruction to the DHSS Secretary to promulgate new regulations that would fall under the Personal Assistance Service Agencies (PASA). Sheila stated that currently under the Administrative Code, they are not allowed to give medications. She added that several agencies stated that this could be added to the Care Plan. Several agencies stated that they would offer this service if the rules were changed. Sheila would like to get stakeholders involved at the event on April 19 at Legislative Hall.

Sheila asked for feedback from the group (as individuals). Comments can be sent to John for collection and he will forward them to Sheila. Lloyd asked if AARP was looking for other organizations to support this legislation. Sheila plans to collect letters from a list of organizations once the legislative is written. She commented that Bryan Townsend, John Walsh and Paul Baumbach are interested legislators.

John spoke about HB 31, which created the Personal Attendant Services Program. This legislation allows individuals to hire attendants and instruct them on giving them medications and is a State-funded program. He added that home health agencies do not want to do this because of liability issues. Sharon commented that several agencies she has had conversations with are willing to do this if the regulations were not prohibitive. She noted that the regulation requires \$1M of liability insurance. Anthony asked if we should be making a distinction between PASA agencies and home health agencies. Sharon will check on the home health agencies since she had previously checked with PASA agencies. Anthony noted that the home health agencies carry the bulk of this service and consumers would like to have home health aides have training and can be delegated this responsibility. Comment was made that VNA and Bayada work through Medicaid. John suggested contacting Bob Bird, the President of Delaware Association of Home & Community Care, which represents over 40 home health agencies. Sheila will contact Bob Bird. John stated that the Personal Attendant Services Program is run by DSAAPD (Division of Services for Aging & Adults with Physical Disabilities). He added that there are many overlapping needs from the aging community and adults with physical disabilities. Sheila commented that adults that can read and follow directions can give medications in a home setting. She noted that licensed day care providers in the home are allowed to give medications to children with a signed release from the parents, with the original medicine from the physician, and they take a short online course and test. Jamie thought this was a good idea, but had concern about the reliance on family. She noted that not everyone has family nearby. Sheila spoke about some people falling through the cracks, who may have cognitive problems and are unable to take the medications themselves. These are the peoples she is trying to help. Jamie spoke about the difference between the PASA and home health agencies, and has found that PASA agencies cannot assist directly with medications, although they can give reminders. Sheila stated that they have about 10 activities that they are allowed to do, but giving medications is not included. This is what they are trying to change. Two of the larger

PASA agencies are willing to change. Anthony asked if the proposed legislation would empower PASA to do this. Anthony spoke about the Nurse Practice Act and that it would allow home health agencies to train attendants to administer medication. Sheila commented that she has spoken with Mary Peterson who confirmed that they are not allowed to give medications. Jamie stated that the Nurse Practice Act states that nurses are allowed to delegate except for specific medical procedures a g-tube, j-tube and insulin injections. Anthony commented that this legislation would increase options and expand opportunity, but there still needs to be conversations with home health agencies. Sheila commented that anything that requires nursing judgement or nurse assessment cannot be delegated, including medications. She added that some states have made a distinction that routine medications should not rise to the level of requiring nursing judgement. Anthony commented that it seems that the home health agencies would then be restricted.

Sheila suggested speaking to David Mangler (Director of Professional Regulations). Sheila will highlight these particular areas of the Nurse Practice Act and the PASA Regulations and send them to John. Sheila suggested contacting Pamela Zickafoose, President of the Board of Nursing.

Sheila stated that once the legislation is written, she will contact John about a letter of support and provide pertinent regulatory language. She will also contact other organizations. Lloyd made a motion that the SCPD send a letter of support once the legislation is written and that information be sent to the Council membership so that as individuals who represent other organization can also send letters of support as this seems like a time issue. Jim Miller seconded the motion. The motion was approved with no one opposing or abstaining.

Update – Legislation re: Membership Voting by Teleconferencing

John spoke about Victoria contacting him with her thoughts about this so that she can pursue the endeavor. Victoria stated that there had been discussion at the last meeting of allowing any member of any public board, commission or council and who is a member of a disability to be allowed to participate in the meeting by teleconference.

Victoria has some questions and wanted to receive guidance before finalizing the language that she was looking at. This would involve changing the State's Open Meeting Law under FOIA (Freedom of Information Act). Currently the law only allows participation in-person or by video-conferencing at two locations that are open and public. She discovered that four Boards (the State Use Law Commission, the Cash Management Board, the Plans Management Board, and the Board of Pension Trustees) that allow all members to participate by teleconferencing.

Victoria asked how we would define what a person with a disability is since we want to allow persons with disabilities to participate by phone. She noted that there is a definition under ADA and in the Delaware Code. She also asked if the person with a disability would automatically use teleconferencing for all meetings or limit it to those who need it as a reasonable accommodation for particular meetings. She also stated that we need some direction on how the Chair of a Board

would verify that a person is a person with a disability and qualifies to use teleconferencing and what would the person have to submit (doctor's note, affidavit).

Lloyd spoke about the precedence that has been set by the existing four groups that allow teleconferencing and the person calling in does not have a disability. He said we should follow this precedence because then there will be issues of discrimination or reverse discrimination. He recommended opening teleconferencing to all members of Boards and let individual Boards decide if they choose to have teleconferencing as a way of participating towards a quorum. Victoria commented that was not what was voted on at the last meeting, but that would address most of her questions. Victoria noted that if we go this way, it will meet resistance from legislators. Deb added that teleconferencing helps the Council continue business and have a quorum when people are unable to attend the meeting in-person. Victoria commented that the logical extension is that it could end up with only her and John sitting in a room. John added that communicating can be challenging over the phone and we want to strongly encourage face-to-face participation. Jim Miller commented that we are discriminating without being discriminate because in today's age of video and teleconferencing, any method of communication should be allowed as long they can be verified (voice recognition by phone). He added that otherwise we are discriminating. Loretta spoke about video-conferencing and will check to see if Delaware School for the Deaf has that capability.

Lloyd made a motion to amend the motion made at the last meeting to draft legislation that would open teleconferencing as an option for all State Boards and Commissions to all members of that Board or Commission. Anthony seconded the motion and the motion was approved with no one abstaining or opposing. Victoria will draft legislation based on this motion and will bring to the next meeting. She added that we will have to craft an argument as to why it is appropriate. John commented that if we start out with this process, it may not end up fully what we want. If it gets whittled down to a reasonable accommodation, that would be a huge success.

Update – SCPD Retreat

Rita Landgraf will be facilitating the SCPD on Monday, July 18th at the St. Jones Reserve Training Center. It will be an all-day retreat.

Reports

- Employment First Oversight Commission – Lloyd stated that there was a meeting this month, but we did not have quorum. The meeting start time is changed from 9:30 am to 10:30 am. They hope to have video conference available from New Castle and Kent Counties. John added that it is a nice facility that is fully accessible and they have accessible nature trails.
- Executive Committee – Not discussed due to lack of quorum since one member had to leave.
- Brain Injury Committee – Not discussed due to lack of quorum since one member had to leave.

- Policy & Law Committee – Not discussed due to lack of quorum since one member had to leave.
- Housing Committee – Not discussed due to lack of quorum since one member had to leave.
- Deaf & Hard of Hearing Work Group – Not discussed due to lack of quorum since one member had to leave.
- Home & Community-Based Work Group – Not discussed due to lack of quorum since one member had to leave.

Other Business

John said that a Home Health Care Agency will be presenting at the April 16th meeting about services they provide. Jamie will send John the name of the representative. Also, Ann Kempinski of the Delaware Health Care Commission will be presenting on Executive Order 19.

Karen asked about pending legislation or updates at Legislative Hall. Laura spoke about an advanced scholarship bill to provide gas funding for individuals with developmental disabilities that want to pursue post-secondary education. Laura also spoke about H.B. 302, which creates new procedures regarding the relinquishment of firearms for individuals with mental illness who are presenting themselves as a danger with probable cause. She added that DLP did a thorough analysis of this legislation. John noted that the February DLP Analysis is included in the handouts. Jamie asked about the status of H.B. 160 (End of Life Options). John commented that Daniese and some other folks are tracking this legislation and we can provide updates.

John spoke about federal H.R. 620 re: ADA Education & Reform Act. He drafted a letter, but wanted to know when Council would like him to send it. This legislation makes it more challenging to file a lawsuit against a business. He explained that the legislation has not yet been taken up by the Senate, but was passed by the House. Brian had previously drafted a letter. He asked if we should send the letter now or wait until it is an issue. Karen recommended sending the letter to national organizations (for example, the National Council on Disability). Lloyd asked John to send the letter to Council members so it can be shared with other groups. John noted that we need the advocacy of Delaware's legislators with their colleagues.

Lloyd made a motion to send the letter to Delaware's federal legislators when the legislation hits the Senate Floor. Karen seconded the motion. Motion approved with no one abstaining or opposing.

ANNOUNCEMENTS

Jim Miller asked about the status of the letter that he sent to John and Jamie about the use of mobility equipment for advocacy. He had asked that a letter be written to appropriate Senators, Representatives and agencies. John will follow up with Jim. Jamie announced that Wendy Strauss's father is very ill.

PUBLIC COMMENT

None

ADJOURNMENT

Lloyd made a motion to adjourn the meeting at 3:11 pm. Jim Miller seconded the motion and the motion was approved. The meeting was adjourned at 3:11 pm.

Respectfully submitted,

Jo Singles
Administrative Specialist

SCPD/min/mar18